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cc: WSTW

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STATE OF MISSOURI
DEPARTMENT OF NATURAL RESOURCES

DIVISION OF ENVIRONMENTAL QUALITY
P.O. Box 176 Jefferson City, MO 65102-0176

DEC 22 1994

Site:	Maline Creek
ID #	MDT-980631162
Phase:	1.1
Other:	12-22-94

David Hoefler
FBI
MKS

Mr. Dennis Grams
Environmental Protection Agency
Region VII
726 Minnesota Ave.
Kansas City, KS 66101

DKE



Dear Mr. Grams:

0400

As you know, not long ago we wrote a letter asking you to pursue a cleanup of the Maline Creek Asbestos site (aka Certainteed site) using CERCLA authority. Since then, events have transpired which have caused us to reconsider our position on this issue. Of greatest significance has been the willingness of the Potentially Responsible Parties (PRPs) to negotiate with the Missouri Department of Natural Resources (MDNR) for a cleanup of the site under state regulatory authority. Therefore, we intend to maintain control over the Maline Creek site, given that we will be successful in negotiating a consensual agreement with the PRPs.

At present we are negotiating with Certainteed and GAF Corporations to conduct a response action under our "Spill Bill" authority (RSMo 260.500). Because the site poses an imminent and substantial threat to public health, we will require the PRPs address the site in a manner very similar to a Removal Action under CERCLA.

We hope to have an Abatement Order on Consent (AOC) signed within the next 30 to 60 days. At a minimum, the AOC will require the PRPs to permanently repair the breached landfill and clean up Asbestos Containing Material (ACM) in and around Maline Creek. A brief investigative phase will precede cleanup activities. The scope of cleanup may expand, depending on the findings of the investigation.

Recent analysis of split soil samples collected by PSI, a contractor for the City of Bellefontaine Neighbors, indicates that there may be significant asbestos contamination in exterior soils in the flood buyout area. Although PSI's own analyses indicated no asbestos, MDNR's Air Pollution Control Program utilized a different analytical procedure which revealed the presence of asbestos in several split samples. Because this data was just received, we are currently assessing its impact on the project.

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EPA CNSL/RCRA

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DEC 27 1994

REGIONAL ADMINISTRATOR

DEC 27 JAN 5 1995



Mr. Dennis Grams

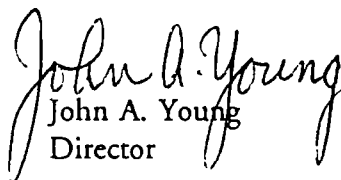
Page 2

As you are aware, if we are unable to effect a cleanup of the site through consensual negotiations with the PRPs, we will transfer authority to the U.S. Environmental Protection Agency (EPA) to pursue a CERCLA response action. In such an event, it is our understanding that EPA would issue a Unilateral Administrative Order (UAO) to the PRPs to conduct a Removal Action. EPA would not attempt consensual negotiations because this would duplicate the efforts taken by the MDNR. Of course, we would refer the site to you only after exhausting all efforts to obtain a consensual cleanup by the PRPs.

We will continue to keep you apprised of site status as activities transpire. In the past we have coordinated with Mr. Paul Doherty, and will continue to do so unless you inform us otherwise. The MDNR contact for negotiations with the PRPs is Mr. Ed Sadler, and the Project Manager for the site is Mr. Jalal El-Jayyousi. If you have any questions, please contact me at (314) 751-3176.

Sincerely,

DIVISION OF ENVIRONMENTAL QUALITY


John A. Young
Director

JAY:SWS:dlh

c: Mr. Gary T. Behrns, Chief, Superfund Section
Mr. Jalal El-Jayyousi, Superfund Section
Mr. Steve Feeler, Air Pollution Control Program
Mr. Tom Kruse, Air Pollution Control Program
Mr. Mike Potter, Solid Waste Management Program
Mr. Daryl Roberts, Missouri Department of Health
Mr. Ed Sadler, Director, Hazardous Waste Program
Ms. Joule Stephenson, Missouri Department of Health
Mr. Steve W. Sturgess, Superfund Section
Ms. Shelley Woods, Attorney General's Office

File: Maline Creek